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C O N F I D E N T I A L SECTION 01 OF 02 LAGOS 002187

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SUBJECT: SOUTHERN SNAPSHOTS - OCTOBER 14 TO 24, 2003

REF: LAGOS 1937 ET SEQ

Classified By: ACTING CONSUL GENERAL JOSEPH P. GREGOIRE FOR REASON 1.5  
(B) AND (D).

The wheels of Justice grind slowly....

1. (U) Although most Nigerian and foreign election observers acknowledged that the Spring 2003 gubernatorial, National Assembly and Presidential elections were rife with fraud, all agreed and all urged disgruntled losing candidates and political parties to pursue their claims and complaints in the constitutionally-established Elections Tribunals. Since the day after the elections ended, Tribunals have been hearing challenges to elections -- including the Presidential elections -- in several southern States and other States in the north. There is no end of the judicial proceedings in sight, and these cases may well linger until the next elections in 2007.

2. (U) Ekiti - The losing Alliance for Democracy Party (AD) has charged fraud in the election of the winner of the governorship in this, the newest and smallest Nigerian State. AD charges that Governor Ayo Fayose of the Peoples Democratic Party (PDP) won with a forged official election victory certificate. This past June, the tribunal had thrown out the AD suit on technical grounds, deciding that the AD gubernatorial challenger and his running mate, Niyi Adebayo and Paul Alabi, respectively, had not been properly joined as complainants in the suit. Last week the Court of Appeal overturned the Tribunal's decision, again on a technicality, and restarted the judicial wrangling.

3. (U) Anambra - In addition to the turmoil caused by the July attempted coup involving kidnapping of the newly elected governor at the direction of his political "godfather", Anambra State is also embroiled in a dispute in the Tribunal challenging the validity of the gubernatorial election itself. The All Progressives Grand Alliance (APGA) has charged that PDP Governor Chris Ngige has stolen "the mandate of the people of Anambra." Months after the elections and the swearing in of officials, officers of the Independent National Election Commission (INEC) are now coming forward to testify in court that they never signed nor certified documents declaring Ngige the winner.

4. (U) Enugu - The Tribunal in Enugu has flip-flopped so many times in its decision on the APGA's challenge to the election of PDP Governor Chimaroke Nnamani that the President of the Court of Appeal in the capital, Abuja, has started action to try to move the legal proceedings there. The suggested move has been challenged as unconstitutional since the Nigerian Constitution requires that the Tribunals be "established in each State of the Federation" and "have due regard to the proximity to and accessibility from the place where the election was held." A decision is expected next week.

5. (U) Akwa-Ibom - Dr. Ime Umanah's (All Nigeria Peoples Party - ANPP) challenge to the election of PDP Governor Victor Attah is apparently in legal limbo. Umanah had charged that Attah was not eligible to run for governor since he had allegedly accepted an illegal contribution. The tribunal dismissed the challenge on the grounds of insufficient showing of misconduct. The case is on appeal and the National Judicial Council has entered the proceedings to investigate charges of possible misconduct by the Tribunal judges.

6. (U) Bayelsa - The PDP has lost a challenge to one of the few National Assembly seats won by APGA. Citing a procedural error, the Tribunal had decided in favor of the PDP. The

Court of Appeal, however, reversed the lower court's decision saying that the court could have exercised its discretion "and overlooked what was obviously a minor non-compliance." The PDP has re-filed its suit in the Tribunal.

"Defending" human rights?

17. (C) Prominent attorney and co-founder of the Committee for the Defense of Human Rights (CDHR), Femi Falana, along with another CDHR former official, Beko Kuti, are alleged to have recruited a gang of thugs ("area boys") to dislodge current CDHR officials and workers from the group's headquarters in Lagos. The area boys are reported to have forced entry into the CDHR offices, destroyed equipment and furniture and severely beaten staff. Police who were called to the scene reportedly did nothing to stop the attack, supposedly because they had been bought off by Falana and Kuti. Local media have reported that Falana and Kuti refuse to accept that they were not re-elected to head the influential, nationwide organization and have decided to take back control by force. (Comment. Falana, like several other leaders of NGOs that led the fight against military rulers over the past decades, saw his influence waning as democracy struggled to take root and decided to turn to politics as a way to remain in the limelight. In the last election, Falana ran and lost as the Presidential candidate of the National Conscience Party. CDHR is in turmoil, but still functioning and has asked a group of prominent persons, including lawyer, activist and former Presidential candidate, Gani Fawehinmi, to look into the matter. No charges of any kind have been filed against Falana or Kuti.)  
GREGOIRE